

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MAGEEDAH AKHTAB, QUSUGUZH :  
MUHAMMAD, and JEFREE ARIAS :  
:

Plaintiffs, :

-against- :

BCBG MAX AZARIA GROUP, INC. :

Defendant. :  
-----X

ALVIN K. HELLERSTEIN, U.S.D.J.:

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**ORDER DENYING APPOINTMENT  
OF COUNSEL**

08 Civ. 3088 (AKH)

In light of the decisions of the Second Circuit in Cooper v. A. Sargenti Co., Inc., 877 F.2d 170 (2d Cir. 1989), and Hodge v. Police Officers, 802 F.2d 58 (2d Cir. 1986), I deny the application for appointment of counsel.

The threshold question in determining whether or not to assign counsel to an indigent plaintiff is whether his or her claim is “likely to be of substance.” Cooper, 877 F.2d at 172. If a claim is found likely to be of substance, Hodge then articulates additional factors to be considered with respect to whether or not counsel should be appointed. Those factors are “the indigent’s ability to investigate the crucial facts, whether conflicting evidence implicating the need for cross-examination will be the major proof presented to the fact finder, the indigent’s ability to present the case, the complexity of the legal issues and any special reason in that case why appointment of counsel would be more likely to lead to a just determination.” Hodge, 802 F.2d at 61-62.

Volunteer time of lawyers is a scarce resource that should be carefully allocated. Cooper, 877 F.2d at 172. “[C]ourts should not grant such applications indiscriminately.” Id. At


this point in the proceedings, plaintiffs have not shown that their complaint seems “likely to be of substance,” nor the other factors that would satisfy the standard for appointment of counsel.

Hodge, 802 F.2d at 61.

A more fully developed record will be necessary before I can determine if plaintiffs’ chances of success and the existence of other appropriate factors warrant the appointment of counsel. Therefore, plaintiffs’ application is denied without prejudice to its renewal when the record is more fully developed.

SO ORDERED.

Dated: New York, New York  
June 3, 2009



ALVIN K. HELLERSTEIN  
United States District Judge